

RESOLUTION NO. 91-189
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A RESOLUTION OF THE LODI CITY COUNCIL
DELEGATING AUTHORITY TO THE CITY MANAGER AND ASSISTANT CITY MANAGER
PURSUANT TO SECTION 21034 OF THE GOVERNMENT CODE OF THE STATE OF
CALIFORNIA TO MAKE DETERMINATIONS REGARDING INDUSTRIAL DISABILITY
RETIREMENTS THEREUNDER, TO ESTABLISH A PROCEDURE RELATING TO INDUSTRIAL
DISABILITY RETIREMENT DETERMINATIONS, AND RESCINDING RESOLUTION
NO. 88-16.

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WHEREAS, the City of Lodi (hereinafter referred to as "agency")
is a contracting agency of the Public Employees' Retirement System; and

WHEREAS, the Public Employees' Retirement Law requires that a
contracting agency determine whether an employee of such agency in
employment in which he/she is classified as a local safety member is
disabled for purposes of the Public Employees' Retirement Law and
whether such disability is "industrial" within the meaning of such law;
and

WHEREAS, the City Council has determined upon legal advice that
it may delegate authority under Section 21034 of the Government Code to
make such determinations to the incumbent of the office of City Manager
and Assistant City Manager;

NOW, THEREFORE, BE IT RESOLVED, that the City Council delegate
and it does hereby delegate to the incumbent of the office of City
Manager and Assistant City Manager authority to make determinations
under Government Code Section 21023(c) on behalf of the agency, of
disability and whether such disability is industrial and to certify
such determinations and all other necessary information to the Public
Employees' Retirement System; and

BE IT FURTHER RESOLVED, that the City Manager or Assistant City
Manager are authorized to make applications on behalf of the agency for
disability retirement of employees in employments in which they are
local safety members and to initiate requests for reinstatement of such
employees who are retired for disability; and

BE IT FURTHER RESOLVED, that the disability retirement
certification procedure for local safety members be as follows:

1. Determination of Disability. Whenever an application for
disability retirement is filed with the Public Employees' Retirement
System (PERS) by any party, for disability retirement of a local safety
member, as that term is defined by the applicable provisions of state
law, the City Manager or Assistant City Manager shall thereafter
conduct a hearing to determine whether said employee is incapacitated
physically or mentally for the performance of the duties of his/her
position. When it is determined that said employee is so
incapacitated, the City Manager or Assistant City Manager shall further
determine whether such incapacity is industrially related.

2. Representation at Hearing. The City shall be represented at said hearing by the Assistant City Manager or Personnel Director. The employee shall have the right to be represented by himself or any other person he/she so selects.

3. Evidence of Disability. Prior to notice of hearing, the City shall, upon receipt of an application for disability retirement of a member, order a medical and/or a psychiatric examination to determine whether the member is incapacitated for the performance of duty. The results of the examination shall be submitted to, and considered at said hearing. The employee shall have the right to submit any independent medical evidence at said hearing.

In addition, either party may submit any other and additional evidence, either oral or documentary, which is relevant to the determination as to whether the employee is incapacitated, physically or mentally, for the performance of the duties of his/her position.

4. Decision. Based upon the evidence presented, the City Manager or Assistant City Manager shall determine whether such employee is incapacitated physically or mentally for the performance of the duties of his/her position, and whether such incapacity is a result of injury or disease arising out of and in the course of employment as a local safety member. If termination of employment for incapacity physically or mentally is made, such determination shall be certified to PERS which will then process the disability retirement.

5. Appeal. If the employee wishes to appeal the determination of capacity, he/she may file written notice of such appeal within 90 days, requesting an administrative hearing before the Personnel Board of Review. The Personnel Board of Review procedures shall be in conformity with the Administrative Procedure Act in which an administrative record will be generated at the hearing. That body will review all evidence the City or the employee wishes to submit. The Personnel Board of Review retains the right to make factual determinations and render a final decision on the disability status of the employee. Following the conclusion of the hearing, the Personnel Board of Review shall prepare the findings and transmit those findings by way of certification to PERS.

If the Personnel Board of Review determines that the employee is not incapacitated, and the employee wishes to appeal the ruling of the Board, he/she may file a petition for writ of mandate in the Superior Court of San Joaquin County within thirty days from date of the determination; and

FURTHER RESOLVED, Resolution 88-16 is rescinded upon adoption of this resolution.

Dated: October 16, 1991

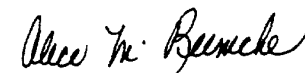
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I hereby certify that Resolution No. 91-189 was passed and adopted by the Lodi City Council in a regular meeting held October 16, 1991 by the following vote:

Ayes: Council Members - Pennino, Pinkerton, Sieglock, Snider
and Hinchman (Mayor)

Noes: Council Members - None

Absent: Council Members - None


Alice M. Reimche
City Clerk